IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

(Special Original Jurisdiction)

Thursday, the Fourteenth Day of October, Two Thousand and Four

Present :

The Hon'ble Mr.Justice J.CHELAMESWAR

W.P.No.16206 of 1992

Between :

1. Mohd. Zabeebullah,

Aged : 30 years, Advocate,

H.No.20-2-831, Kaman Soohi Meer

Dood Bowli, Hyderabad

2. M.Ishaq Akbar Khan,

Aged : 30 years, Advocate,

H.No.18-12-419/1, H.B.Nagar,

Kanchanbagh, Hyderabad

3. Mohd. Qamaruddin,

S/o Md.Saleemuddin, Aged : 30 years,

Resident of Hyderabad

4. P.Ameerkhan, S/o P.Muneer Khan,

Aged : 28 years, Resident of Hyderabad

5. Ahmed Ali, S/o of Ali, Aged : 32 years,

Resident of Hyderabad

6. Sardar Mohd. Fazil,

S/o Sardar Mohd. Yousuf, Aged : 28 years,

Resident of Hyderabad

7. Mohd. Muslehuddin,

S/o Mohd,. Chiraguddin,

Aged : 41 years, R/o Hyderabad

8. Mohd. Hussain Jamal, S/o Mohd. Saleh Jamal,

Aged : 29 years, R/o Hyderabad

9. Habib Khalid, S/o Habib Mustafa,

Aged : 29 years, R/o Hyderabad

10. M.A.Samad Baig,

S/o M.Hidayatullah Baig,

Aged : 40 years, R/o Hyderabad .. Petitioners

And

1. The Bar Council of the State of Andhra Pradesh,

Hyderabad, represented by its Secretary

2. The Bar Council of India, New Delhi,

represented by its Secretary

3. Varanaseeya Sanskrit Viswa Vidyalaya,

Varanasi represented by its Registrar .. Respondents

Petition under Article 226 of the Constitution of India to issue a Writ of Mandamus or any other appropriate writ, order or direction declaring that the impugned notices dated 1.10.1992 issued by the 1st respondent to the petitioners 1 and 2 as arbitrary, invalid and inoperative and further direct the 1st respondent to enroll petitioners 3 to 10 herein as Advocates on its rolls, and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the petitioners : Mr.M.V.Raghunatha Reddy

Counsel for the respondents : Mrs.S.Nanda for R-1

The Court made the following **ORDER :**

The writ petition is filed with the prayer as follows :

> "To issue a writ of *Mandamus* or any other appropriate writ, order or direction declaring that the impugned notice dated 1.10.1992 issued by the 1st respondent to the petitioners 1 and 2 as arbitrary, invalid and inoperative and further direct the 1st respondent to enroll the petitioners 3 to 10 herein as Advocates on its rolls."

There are 10 petitioners in this writ petition. In the affidavit filed in support of the writ petition, it is stated that the petitioners 1 and 2 studied Three Year LL.B., Degree course in Varanaseeya Sanskrit Viswa Vidyalaya, Varanasi, the 3rd respondent herein and claim to have obtained a Law Degree in Second Division. Thereupon, the first two petitioners made applications to the Bar Council of Andhra Pradesh, 1st respondent herein for their enrolment. It is further stated that they were enrolled on 8.10.1991 and 31.12.1991 respectively and thereafter they have been practicing.

On 1.10.1992, the Secretary, Bar Council of Andhra Pradesh, addressed a letter to the 1st petitioner herein, the relevant portion of which runs as follows :

> "With reference to your application for enrolment cited above, I am to inform you that you are admitted as an Advocate of the Bar Council of the State of Andhra Pradesh under State Roll No.AP/611/1951 on 8.10.1991 on the basis of the Law Degree Certificate issued by the Varanaseeya Sanskri Viswa Vidyalaya.
>
> Under Section 24(1)(c)(iii)(a) of the Advocates Act, 1961, the Bar Council of India is the authority to recognize the Law Degrees for the purposes of the Advocates Act, 1961. I am to inform you that the Law Degrees obtained from Varanaseeya Sanskrit Viswa Vidyalaya is not recognized by the Bar Council of India for the purposes of enrolment as an Advocate.
>
> I therefore request you to surrender the original Enrolment Certificate along with the identity card issued to you within 10 days from the date of receipt of this letter for taking further action under section 26(1) of the Advocates Act, 1961."

Challenging the same, the present writ petition is purported to have been filed. It is pertinent to note that the notice issued to the 2nd petitioner is not placed before this Court. The notice dated 1.10.1992 covers only the 1st petitioner. Insofar as the petitioners 3 to 10 are concerned, it is not even the case of those petitioners as can be seen from the affidavit filed in support of the writ petition that they were ever enrolled by the Bar Council of Andhra Pradesh nor their enrolment is sought to be cancelled. The averments regarding the petitioners 3 to 10 as can be seen from the affidavit filed in support of the writ petition are to be found at para (7) of the writ petition which reads as follows :

> "7. I also submit that the petitioners 3 to 10 have also studied 3 years LL.B., course in the 3rd respondent

> University and have passed the said course and were conferred LL.B., degrees by the 3rd respondent. The petitioners 3 to 10 are desirous of getting themselves admitted as Advocates on the rolls of the 1st respondent. Under the circumstances narrated above, the 1st respondent is not likely to admit them as Advocates on its rolls. As already submitted the 2nd respondent has recognized the 3rd respondent and therefore the 1st respondent is not entitled to refuse admission to the petitioners 3 to 10."

In the background of the above mentioned pleadings and the prayer in the writ petition which is already noticed, the petitioners filed a Misc. Petition No.20558 of 1992 with the prayer as follows :

> "to direct the 1st respondent to enroll the petitioners as advocates on its rolls, pending disposal of the above writ petition."

No interim order was passed in the said petition. The other WPMP i.e., WPMP No.20559 of 1992 was filed with the prayer as follows :

> "to suspend the operation of the impugned notices dated 1.10.1992 issued by the 1st respondent to the petitioners 1 and 2 pending disposal of the above writ petition."

By an order dated 16.12.1992, a learned single Judge of this Court granted interim suspension as prayed for.

The 2nd respondent, Bar Council of India, remained unserved and as per the

endorsement of the Registry dated 24.5.2000, the petitioners did not pay the necessary batta for the service on the respondents 2 and 3.

The Bar Council of Andhra Pradesh filed an additional counter affidavit wherein it is stated that the petitioners 3 to 10 have never been enrolled by the Bar Council of Andhra Pradesh whereas the petitioners 1 and 2 herein are enrolled on 8.10.1991 and 31.12.1991 respectively. It is further stated in the additional counter affidavit as follows :

> "10. I submit that State Bar Council of Andhra Pradesh has recommended to remove the names of the petitioners 1 and 2 from the roll of the Advocates on the ground that they were enrolled on the basis of a law degree of Varanasaya Sanskrit Vishwa Vidyalaya which is not a recognized university. The matter was referred to Bar Council of India to take action under the proviso to Section 26(i) of the Advocates Act, 1961.
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> 11. I submit that the Bar Council of India, the 2nd respondent herein, under the powers conferred by Section 26 and 48-a of the Advocates Act, 1961, issued removal proceedings number 5/1993, dt.2.6.1996 and removal proceedings number 11/1993, dt.2.6.1996 respectively in respect of petitioners 1 and 2 herein and the enrolment of the petitioners 1 and 2 made by the Enrollment Committee of the Bar Council of Andhra Pradesh was set aside.
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> 12. I submit that the Bar Council of A.P. was further directed to remove the names of the petitioners 1 and 2 from its rolls. The said removal proceedings had been dispatched to the 1st petitioner by registered post ack due on 4.7.1996 and under certificate of posting on 16.7.1996. I submit that the said removal proceedings of the Bar Council of India was received by the 1st petitioner on 8.7.1996.
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> 13. I submit that the removal proceedings passed against the 2nd petitioner herein by the Bar Council of India was dispatched to the 2nd petitioner on 4.7.1996 under

registered post Ack due and under certificate of posting on 16.7.1996. I submit that the said removal proceedings of the Bar Council of India was received by the 2nd petitioner on 12.7.1996."

In the circumstances, the petitioners 1 and 2, if they have any grievance against the decision of the Bar Council of India by the proceedings of which they were directed to be removed from the rolls of the Bar Council of Andhra Pradesh, they should have taken appropriate legal action. The writ petition in my view is infructuous and is therefore dismissed. Insofar as the other petitioners are concerned, they had no course of action and therefore misconceived and therefore dismissed.

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knk 14.10.2004

To

1. The Secretary, Bar Council of the State of Andhra Pradesh, Hyderabad.
2. The Secretary, Bar Council of India, New Delhi.
3. The Registrar, Vaaranaseeya Sanskrit Vidyalaya, Varanasi.
4. Two CD copies.